I. Introduction

1. Treaty bodies publish authoritative guidance on the provisions of their respective human rights treaties in the form of general comments or general recommendations.[1] To date, eight out of 10 treaty bodies have adopted general comments or general recommendations.[2]

2. General comments constitute detailed and comprehensive commentaries on specific treaty provisions or on the relationship between treaty provisions and specific themes. They may also provide guidance to States on information to be included in State party reports. Over time, general comments have evolved, becoming longer and more complex.

3. By issuing general comments, treaty bodies aim to make the experience gained through State party reviews and, when relevant, through individual communications, available to all States parties, as well as stakeholders, in order to facilitate the interpretation of the treaties and thereby advance implementation by States parties of the treaty provisions for the benefit of rights holders.

4. Certain treaties explicitly endow treaty bodies with the mandate to prepare general comments.[3] The purpose of and process for drafting general comments is described in most committees' rules of procedure or working methods.[4]

5. The General Assembly, in paragraph 38 of its resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, encouraged the human rights treaty bodies, with a view to accelerating the harmonization of the treaty body system, to continue to enhance the role of their chairpersons in relation to procedural matters, including with respect to formulating conclusions on issues related to working methods and procedural matters, promptly generalizing good practices and methodologies among all treaty bodies, ensuring coherence across the treaty bodies and standardizing working methods.

6. In paragraph 14 of that same resolution, the General Assembly encouraged the human rights treaty bodies to develop an aligned consultation process for the elaboration of general comments that provides for consultation with States parties in particular and bears in mind the views of other stakeholders during the elaboration of new general comments.

7. At their twenty-sixth meeting, the treaty body chairpersons decided to consider the possible alignment of the consultation process for the elaboration of general comments by treaty bodies at their twenty-seventh meeting (see A/69/285, para. 115 (c)).

8. Currently, there are differences, sometimes significant ones, in the consultation processes used by the treaty bodies in the elaboration of general comments. Moreover, a single treaty body may use different processes depending on the subject matter of the

[1] The latter term is used by the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination.

[2] The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Committee on Enforced Disappearances have not yet issued general comments. The Subcommittee on Prevention of Torture has, however, provided guidance similar to general comments to States parties on procedural or substantive issues.

[3] See the International Convention on the Elimination of All Forms of Racial Discrimination (art. 9), the Convention on the Elimination of All Forms of Discrimination against Women (art. 21) and the International Covenant on Civil and Political Rights (art. 40 (4)).

[4] See the rules of procedure of the Committee on Economic, Social and Cultural Rights (rule 65), the Committee against Torture (rule 74) and the Committee on the Rights of the Child (rule 77), as well as the working methods of the Committee on the Elimination of Discrimination against Women (arts. 27-29) and of the Committee on the Rights of Persons with Disabilities (arts. 54-57).

general comment or the context in which it is conceived. Hence, the present note is limited to giving a broad overview of existing treaty body practices, describing general trends.

II. Treaty body consultation processes for the elaboration of general comments

9. All eight treaty bodies that have developed general comments require a formal decision taken by the committee in plenary or by its bureau to initiate the drafting of a general comment.

10. All eight treaty bodies that have developed general comments have entrusted the preparation of such comments to a working group composed of several treaty body members or have entrusted one or two rapporteurs with drafting and overseeing the preparatory process. Some treaty bodies seek the assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other United Nations entities or external consultants for the drafting of the first version of a general comment.

11. Six out of the eight treaty bodies that have issued general comments (all except the Committee against Torture and the Committee on the Rights of the Child) organize a public discussion on the subject of the general comment being elaborated. Such general discussions usually constitute the first step towards drafting a general comment.

12. In addition to considering written submissions received and oral interventions made during general discussions, the majority of the eight treaty bodies inform States parties of the elaboration of a general comment and explicitly solicit States parties' feedback on a draft general comment. Depending on the theme of the general comment, most treaty bodies specifically solicit feedback from United Nations entities and national human rights institutions. Most treaty bodies also explicitly seek comments from civil society organizations. Frequently, treaty bodies also seek comments from academic and technical experts.

13. Six out of the eight treaty bodies that have issued general comments (all except the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination) have posted advanced versions of draft general comments on the OHCHR website.

14. While the formal adoption of general comments, either separately or as part of a report, is standard procedure, not all committees discuss the adoption of a general comment in public.

III. Elements for endorsement by the treaty body chairpersons

15. On the basis of existing practices and with a view to accelerating the harmonization of the treaty body system, ensuring coherence across the treaty bodies and standardizing working methods, the chairpersons may consider endorsing the following elements for the elaboration of and consultations on general comments and recommending their generalization among all treaty bodies that issue general comments:

(a) The decision to draft a general comment is made in plenary;

(b) Each time a treaty body initiates the drafting of a general comment, a working group composed of treaty body members or a rapporteur is appointed and entrusted drafting the general comment;

(c) A note describing the consultation process for general comments is made publicly available;

(d) States parties are informed of the decision to elaborate a general comment and given the opportunity to provide input, comments or feedback;

(e) Draft general comments are shared with other treaty bodies for input, comments or feedback, with a view to strengthening the coherence of treaty law interpretation;

(f) Advance versions of draft general comments are posted on the OHCHR website to make them accessible to a broad range of stakeholders;

(g) Input, comments or feedback received from States parties, other treaty bodies, national human rights institutions and civil society organizations are taken into consideration by the treaty body, as appropriate.